PRESCRIPTION DRUG MONITORING PROGRAM
4052 BALD CYPRESS WAY, BIN #C-16
TALLAHASSEE, FLORIDA 32399-3254
(850) 245-4797

RULE WORKSHOP

Public Agenda Materials

JULY 8, 2013

4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399
8:30 AM to 1:00 PM

Rebecca R. Poston, BPharm, MHL, Program Manager

Section 120.525(2), *Florida Statutes*, requires this agenda, along with any meeting materials available in electronic form excluding confidential and exempt information, shall be published on our web site.

Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Notice of Development of Rulemaking

DEPARTMENT OF HEALTH
Prescription Drug Monitoring Program

RULE NOS.:	RULE TITLES:
64K-1.003	Accessing Database
64K-1.004	Management and Operation of Database
64K-1.005	Privacy of Information

PURPOSE AND EFFECT: To strengthen accountability measures for the safekeeping of confidential prescription information after statutorily authorized release from the database.
SUBJECT AREA TO BE ADDRESSED: The Department will develop rules establishing procedures for acquiring both direct and indirect access to the database, procedures for revoking access to the database, standards for the denial of requests for direct and indirect access to the database, as well as any other measures related to access, database operation or database management identified during the rulemaking process as promoting the privacy of confidential prescription information after statutorily authorized release from the database.
RULEMAKING AUTHORITY: 893.055 FS.
LAW IMPLEMENTED: 893.055, 893.0551 FS.
A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE AND TIME: Monday, July 8, 2013, 8:30 a.m. – 1:00 p.m.
PLACE: Florida Department of Health, 4052 Bald Cypress Way, Room 301, Tallahassee, Florida 32399
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Rebecca Poston, Program Manager, Prescription Drug Monitoring Program, 4052 Bald Cypress Way, Bin #C-16, Tallahassee, Florida 32399 or email address: Rebecca_Poston@doh.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rebecca Poston, Program Manager, Prescription Drug Monitoring Program, 4052 Bald Cypress Way, Bin #C-16, Tallahassee, Florida 32399 or email address: Rebecca_Poston@doh.state.fl.us
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

RULE WORKSHOP
Prescription Drug Monitoring Program
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399
July 8, 2013
8:30AM to 1:00PM

AGENDA

I. Welcome and Opening Remarks-Kim E. Barnhill, MS, MPH, Chief of Staff

II. Workshop Instructions- Laura Reeves, Moderator

III. Overview of PDMP Database- Rebecca Poston, BPharm, MHL, Program Manager

IV. Rule Discussion- Laura Reeves

Tab 1: 64K-1.003 Accessing the Database

Tab 2: 64K-1.004 Management and Operation of Database

Tab 3: 64K-1.005 Security of Information

Tab 4: Reference Material
1. Section 893.055, Florida Statutes
2. Section 893.0551, Florida Statutes

V. Public Comments- Laura Reeves

VI. Closing Remarks- Kim E. Barnhill, MS, MPH, Chief of Staff

Adjourn

Update on Florida's PDMP

Rules Workshop
July 8, 2013
Rebecca Poston, MHL, BPharm

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Accessing the Database

Direct Access

- Physicians
- Osteopathic Physicians
- Podiatric Physicians
- Dentists
- Physician Assistants
- ARNPs
- Pharmacists
- Optometrists

Indirect Access

- Law enforcement agency.
- DOH or regulatory board
- Attorney General's Medicaid Fraud Unit

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Definitions

Law Enforcement Agency:

Section 893.0551(1)(i), F.S., defines the term "law enforcement agency" to include FDLE, Florida Sheriff's Department, Florida police department, or a law enforcement agency of the Federal Government which enforces laws relating to controlled substances and which its agents and officers can conduct criminal investigations and make arrests.

Authority to Access the Database

Law Enforcement

- Section 893.055(7)(c)3., F.S., provides that a law enforcement agency may request **indirect access** to confidential information in the database during **active investigations** regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances.

Authority to Access the Database

DOH and Medicaid Fraud Unit

- Section 893.055(7)(c)1-3., F.S., provides that the Department of Health Investigative Services Unit and Medicaid Fraud Unit investigators may have **indirect access** to the information in the database to aide in the investigation of cases involving controlled substances.

Definition of Active Investigation

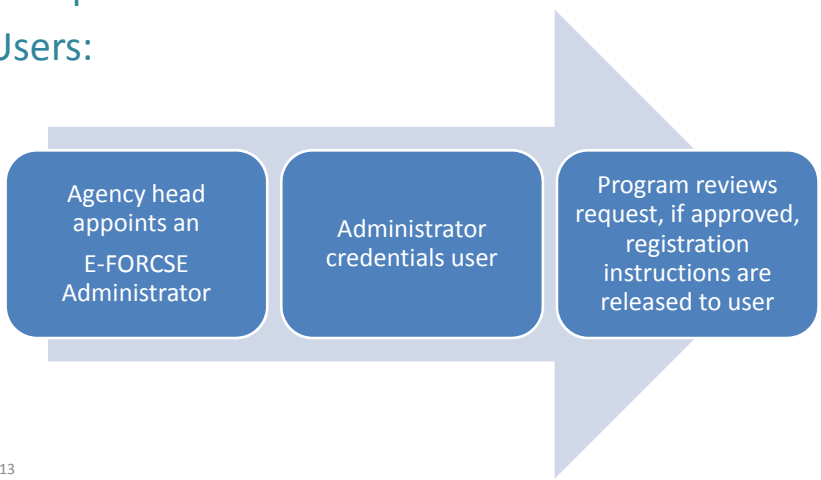
- Section 893.055(1)(h) defines an **active investigation** as an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

Public Record Exemption

- Section 893.0551, F.S. provides a public records exemption for confidential and exempt information held by the department and authorizes its release under certain conditions.
- Section 893.0551(5), F.S., authorizes the law enforcement agency disclosure of confidential exempt information received from the PDMP to a criminal justice agency as defined in section 119.011, F.S., as part of an active investigation.
- Section 893.0551(6), F.S., ANY person who willfully and knowingly violates this section of law by sharing confidential protected health information commits a felony of the third degree.

Accessing the Database

3 Step Process to Credential Users:



Security of Information

- Background screens are completed for all state staff and vendor employees involved in handling confidential and personal information.
- The PDMP uses a three-step security approach to protect the system and database from unauthorized users.
- The PDMP adheres to established DOH security policies, best practices, and password requirements.
- All user activity is digitally recorded and archived.

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Security of Information

- Information is only released to credentialed and verified law enforcement and investigative services key personnel.
- All law enforcement and investigative services requests require an agency case number.
- Required fields include last name, first name, date of birth, address and purpose for search.

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Contact Information

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Program website:
www.e-forcse.com

64K-1.003 Accessing Database.

(1) The following entities have direct access to the information contained in the Program database:

(a) A pharmacist, prescriber, or dispenser if the information relates to a patient of that pharmacy, prescriber, or dispenser for purposes of reviewing the patient's controlled substance prescription history. Those entities who are authorized to prescribe or dispense controlled substances, Schedules II-IV, and are licensed in the State of Florida may access the database through the secure web portal to request and receive information electronically, or may submit a written request to the Program manager if information must be received by an alternate means.

(b) The Program manager and designated Program support staff acting at the direction of or as authorized by the Program manager for purposes of management of the Program database.

(2) The following entities do not have direct access to the information in the database, but may request access from the Program manager or authorized staff:

(a) The Department or the heath care regulatory boards in Section 893.005(7)(c)1., F.S., when involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

(b) The Attorney General or designee for Medicaid Fraud cases involving prescribed controlled substances.

(c) A law enforcement agency during an active investigation regarding potential criminal activity, fraud, or theft relating to prescribed controlled substances.

(d) A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in Section 893.0551, F.S., who, for the purpose of verifying the accuracy of the database information, contacts the Prescription Drug Monitoring Program at 4052 Bald Cypress Way, Bin C-16, Tallahassee, FL 32399-3254 or by telephone at (850) 245-4797 to request form DH 2143 "Patient Information Request," effective December, 2010, which is incorporated by reference and located at http://www.flrules.org/Gateway/reference.asp?No=Ref-00721. To receive the requested information, the patient or other authorized person must make an appointment, appear in person at the Program office, and produce a valid government issued identification, which includes a photograph.

(3) The Program manager or designated staff must ensure that the entity requesting access to information is permitted by law to receive access and must document steps taken to verify the request as authentic.

Rulemaking Authority, 893.055 FS. Law Implemented 893.055 FS. History–New 11-24-11.

64K-1.004 Management and Operation of Database.

(1) All entities that dispense controlled substances, Schedules II-IV, are required to report to the Program database. These entities include:

(a) Any pharmacy with a permit issued under Chapter 465, F.S., that dispenses controlled substances, whether located in or out of the State of Florida, including mail order or Internet pharmacies.

(b) Any health care practitioner, practicing in Florida, who dispenses any controlled substances, Schedules II-IV, and who is licensed under Chapter 458, 459, 461, 462 or 466, F.S.

(c) Exemptions from reporting are as stated in Section 893.055(5), F.S.

(2) All dispensers will electronically submit data to the Program's database as soon thereafter as possible, but not more than 7 days after the controlled substance is dispensed to an individual. Extensions of the time within which a dispenser must report the dispensing of a controlled substance shall be granted for no more than 30 days upon request to the Program by any dispenser unable to submit data by electronic means for good cause if the dispenser provides evidence of having suffered a mechanical or electronic failure or cannot report for reasons beyond the control of the dispenser or if the database is unable to receive submissions.

(3) Data not accepted by the database system due to a substantial number of errors or omissions shall be corrected and resubmitted to the database by the reporting dispenser within ten business days of receiving written notice that the submitted data was unacceptable.

(4) Failure to report the dispensing of Schedules II-IV controlled substances will result in the Program filing a complaint with the Department for investigation and a referral to law enforcement.

(5) All information from the database disseminated in any form by the Program to any entity is considered protected health information and the use of it is governed by any and all applicable federal and state laws.

(6)(a) A patient, health care provider, prescriber, or dispenser is authorized to submit to the Program an electronic request for the correction of erroneous information in the database. The request shall include:

1. A statement explaining in detail the basis for the requested correction;

2. The precise change requested;

3. Documentation establishing the error and the correct information;

4. The requester's name, address, telephone number, and license number if licensed as a health care provider in Florida.

(b) The Program manager or designated staff will review all requests to correct information in the database and will contact the entity that provided the data under review. If the reporter of the data concurs that the data should be corrected as requested, the reporter will make the correction. If the reporter does not agree, the reporter will not enter the correction. The entity or person requesting the correction will be notified of whether the correction has been made.

Rulemaking Authority 893.055 FS. Law Implemented 893.055 FS. History–New 11-24-11.

64K-1.005 Security of Information.

Breaches in database security discovered by the Program manager or designated staff must be reported to the Department and to law enforcement within one business day of discovery of the breach. System users who become aware of a breach in security must report the suspected breach to the Program manager or designated staff as soon as possible, but no later than one business day after its discovery.

Rulemkaing Authority 893.055 FS. Law Implemented 893.055 FS. History–New 11-24-11.

The 2012 Florida Statutes

893.055 Prescription drug monitoring program.—

(1) As used in this section, the term:

(a) "Patient advisory report" or "advisory report" means information provided by the department in writing, or as determined by the department, to a prescriber, dispenser, pharmacy, or patient concerning the dispensing of controlled substances. All advisory reports are for informational purposes only and impose no obligations of any nature or any legal duty on a prescriber, dispenser, pharmacy, or patient. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The advisory reports issued by the department are not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of the report; and a person who participates in preparing, reviewing, issuing, or any other activity related to an advisory report may not be permitted or required to testify in any such civil action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with preparing, reviewing, or issuing such a report.

(b) "Controlled substance" means a controlled substance listed in Schedule II, Schedule III, or Schedule IV in s. 893.03.

(c) "Dispenser" means a pharmacy, dispensing pharmacist, or dispensing health care practitioner.

(d) "Health care practitioner" or "practitioner" means any practitioner who is subject to licensure or regulation by the department under chapter 458, chapter 459, chapter 461, chapter 462, chapter 464, chapter 465, or chapter 466.

(e) "Health care regulatory board" means any board for a practitioner or health care practitioner who is licensed or regulated by the department.

(f) "Pharmacy" means any pharmacy that is subject to licensure or regulation by the department under chapter 465 and that dispenses or delivers a controlled substance to an individual or address in this state.

(g) "Prescriber" means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner.

(h) "Active investigation" means an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

(i) "Law enforcement agency" means the Department of Law Enforcement, a Florida sheriff's department, a Florida police department, or a law enforcement agency of the Federal Government which enforces the laws of this state or the United States relating to controlled substances, and

which its agents and officers are empowered by law to conduct criminal investigations and make arrests.

(j) "Program manager" means an employee of or a person contracted by the Department of Health who is designated to ensure the integrity of the prescription drug monitoring program in accordance with the requirements established in paragraphs (2)(a) and (b).

(2)(a) The department shall design and establish a comprehensive electronic database system that has controlled substance prescriptions provided to it and that provides prescription information to a patient's health care practitioner and pharmacist who inform the department that they wish the patient advisory report provided to them. Otherwise, the patient advisory report will not be sent to the practitioner, pharmacy, or pharmacist. The system shall be designed to provide information regarding dispensed prescriptions of controlled substances and shall not infringe upon the legitimate prescribing or dispensing of a controlled substance by a prescriber or dispenser acting in good faith and in the course of professional practice. The system shall be consistent with standards of the American Society for Automation in Pharmacy (ASAP). The electronic system shall also comply with the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to protected health information (PHI), electronic protected health information (EPHI), and all other relevant state and federal privacy and security laws and regulations. The department shall establish policies and procedures as appropriate regarding the reporting, accessing the database, evaluation, management, development, implementation, operation, storage, and security of information within the system. The reporting of prescribed controlled substances shall include a dispensing transaction with a dispenser pursuant to chapter 465 or through a dispensing transaction to an individual or address in this state with a pharmacy that is not located in this state but that is otherwise subject to the jurisdiction of this state as to that dispensing transaction. The reporting of patient advisory reports refers only to reports to patients, pharmacies, and practitioners. Separate reports that contain patient prescription history information and that are not patient advisory reports are provided to persons and entities as authorized in paragraphs (7)(b) and (c) and s. 893.0551.

(b) The department, when the direct support organization receives at least $20,000 in nonstate moneys or the state receives at least $20,000 in federal grants for the prescription drug monitoring program, shall adopt rules as necessary concerning the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information within the system, including rules for when patient advisory reports are provided to pharmacies and prescribers. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The department shall work with the professional health care licensure boards, such as the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy; other appropriate organizations, such as the Florida Pharmacy Association, the Florida Medical Association, the Florida Retail Federation, and the Florida Osteopathic Medical Association, including those relating to pain management; and the Attorney General, the Department of Law Enforcement, and the Agency for Health Care Administration to develop rules appropriate for the prescription drug monitoring program.

(c) All dispensers and prescribers subject to these reporting requirements shall be notified by the department of the implementation date for such reporting requirements.

(d) The program manager shall work with professional health care licensure boards and the stakeholders listed in paragraph (b) to develop rules appropriate for identifying indicators of controlled substance abuse.

(3) The pharmacy dispensing the controlled substance and each prescriber who directly dispenses a controlled substance shall submit to the electronic system, by a procedure and in a format established by the department and consistent with an ASAP-approved format, the following information for inclusion in the database:

(a) The name of the prescribing practitioner, the practitioner's federal Drug Enforcement Administration registration number, the practitioner's National Provider Identification (NPI) or other appropriate identifier, and the date of the prescription.

(b) The date the prescription was filled and the method of payment, such as cash by an individual, insurance coverage through a third party, or Medicaid payment. This paragraph does not authorize the department to include individual credit card numbers or other account numbers in the database.

(c) The full name, address, and date of birth of the person for whom the prescription was written.

(d) The name, national drug code, quantity, and strength of the controlled substance dispensed.

(e) The full name, federal Drug Enforcement Administration registration number, and address of the pharmacy or other location from which the controlled substance was dispensed. If the controlled substance was dispensed by a practitioner other than a pharmacist, the practitioner's full name, federal Drug Enforcement Administration registration number, and address.

(f) The name of the pharmacy or practitioner, other than a pharmacist, dispensing the controlled substance and the practitioner's National Provider Identification (NPI).

(g) Other appropriate identifying information as determined by department rule.

(4) Each time a controlled substance is dispensed to an individual, the controlled substance shall be reported to the department through the system as soon thereafter as possible, but not more than 7 days after the date the controlled substance is dispensed unless an extension is approved by the department for cause as determined by rule. A dispenser must meet the reporting requirements of this section by providing the required information concerning each controlled substance that it dispensed in a department-approved, secure methodology and format. Such approved formats may include, but are not limited to, submission via the Internet, on a disc, or by use of regular mail.

(5) When the following acts of dispensing or administering occur, the following are exempt from reporting under this section for that specific act of dispensing or administration:

(a) A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.

(b) A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state.

(c) A practitioner when administering or dispensing a controlled substance in the health care system of the Department of Corrections.

(d) A practitioner when administering a controlled substance in the emergency room of a licensed hospital.

(e) A health care practitioner when administering or dispensing a controlled substance to a person under the age of 16.

(f) A pharmacist or a dispensing practitioner when dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.

(6) The department may establish when to suspend and when to resume reporting information during a state-declared or nationally declared disaster.

(7)(a) A practitioner or pharmacist who dispenses a controlled substance must submit the information required by this section in an electronic or other method in an ASAP format approved by rule of the department unless otherwise provided in this section. The cost to the dispenser in submitting the information required by this section may not be material or extraordinary. Costs not considered to be material or extraordinary include, but are not limited to, regular postage,

electronic media, regular electronic mail, and facsimile charges.

(b) A pharmacy, prescriber, or dispenser shall have access to information in the prescription drug monitoring program's database which relates to a patient of that pharmacy, prescriber, or dispenser in a manner established by the department as needed for the purpose of reviewing the patient's controlled substance prescription history. Other access to the program's database shall be limited to the program's manager and to the designated program and support staff, who may act only at the direction of the program manager or, in the absence of the program manager, as authorized. Access by the program manager or such designated staff is for prescription drug program management only or for management of the program's database and its system in support of the requirements of this section and in furtherance of the prescription drug monitoring program. Confidential and exempt information in the database shall be released only as provided in paragraph (c) and s. 893.0551. The program manager, designated program and support staff who act at the direction of or in the absence of the program manager, and any individual who has similar access regarding the management of the database from the prescription drug monitoring program shall submit fingerprints to the department for background screening. The department shall follow the procedure established by the Department of Law Enforcement to request a statewide criminal history record check and to request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The following entities shall not be allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that is confidential and exempt under s. 893.0551. Prior to release, the request shall be verified as authentic and authorized with the requesting organization by the program manager, the program manager's program and support staff, or as determined in rules by the department as being authentic and as having been authorized by the requesting entity:

1. The department or its relevant health care regulatory boards responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances and who are involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

2. The Attorney General for Medicaid fraud cases involving prescribed controlled substances.

3. A law enforcement agency during active investigations regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances.

4. A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in s. 893.0551 who, for the purpose of verifying the accuracy of the database information, submits a written and notarized request that includes the patient's full name, address, and date of birth, and includes the same information if the legal guardian or health care surrogate submits the request. The request shall be validated by the department to verify the identity of the patient and the legal guardian or health care surrogate, if the patient's legal guardian or health care surrogate is the requestor. Such verification is also required for any request to change a patient's prescription history or other information related to his or her information in the electronic database.

Information in the database for the electronic prescription drug monitoring system is not discoverable or admissible in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the appropriate regulatory board.

(d) The following entities shall not be allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information

that contains no identifying information of any patient, physician, health care practitioner, prescriber, or dispenser and that is not confidential and exempt:

1. Department staff for the purpose of calculating performance measures pursuant to subsection (8).

2. The Program Implementation and Oversight Task Force for its reporting to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the prescription drug monitoring program. This subparagraph expires July 1, 2012.

(e) All transmissions of data required by this section must comply with relevant state and federal privacy and security laws and regulations. However, any authorized agency or person under s. 893.0551 receiving such information as allowed by s. 893.0551 may maintain the information received for up to 24 months before purging it from his or her records or maintain it for longer than 24 months if the information is pertinent to ongoing health care or an active law enforcement investigation or prosecution.

(f) The program manager, upon determining a pattern consistent with the rules established under paragraph (2)(d) and having cause to believe a violation of s. 893.13(7)(a)8., (8)(a), or (8)(b) has occurred, may provide relevant information to the applicable law enforcement agency.

(8) To assist in fulfilling program responsibilities, performance measures shall be reported annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department each December 1, beginning in 2011. Data that does not contain patient, physician, health care practitioner, prescriber, or dispenser identifying information may be requested during the year by department employees so that the department may undertake public health care and safety initiatives that take advantage of observed trends. Performance measures may include, but are not limited to, efforts to achieve the following outcomes:

(a) Reduction of the rate of inappropriate use of prescription drugs through department education and safety efforts.

(b) Reduction of the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit.

(c) Increased coordination among partners participating in the prescription drug monitoring program.

(d) Involvement of stakeholders in achieving improved patient health care and safety and reduction of prescription drug abuse and prescription drug diversion.

(9) Any person who willfully and knowingly fails to report the dispensing of a controlled substance as required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) All costs incurred by the department in administering the prescription drug monitoring program shall be funded through federal grants or private funding applied for or received by the state. The department may not commit funds for the monitoring program without ensuring funding is available. The prescription drug monitoring program and the implementation thereof are contingent upon receipt of the nonstate funding. The department and state government shall cooperate with the direct-support organization established pursuant to subsection (11) in seeking federal grant funds, other nonstate grant funds, gifts, donations, or other private moneys for the department so long as the costs of doing so are not considered material. Nonmaterial costs for this purpose include, but are not limited to, the costs of mailing and personnel assigned to research or apply for a grant. Notwithstanding the exemptions to competitive-solicitation requirements under s. 287.057(3)(f), the department shall comply with the competitive-solicitation requirements under s. 287.057 for the procurement of any goods or services required by this section. Funds provided, directly or indirectly, by prescription drug manufacturers may not be used to implement the program.

(11) The department may establish a direct-support organization that has a board consisting of at least five members to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(a) As used in this subsection, the term "direct-support organization" means an organization that is:

1. A Florida corporation not for profit incorporated under chapter 617, exempted from filing fees, and approved by the Department of State.

2. Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, and invest, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures or provide funding to or for the direct or indirect benefit of the department in the furtherance of the prescription drug monitoring program.

(b) The direct-support organization is not considered a lobbying firm within the meaning of s. 11.045.

(c) The State Surgeon General shall appoint a board of directors for the direct-support organization. Members of the board shall serve at the pleasure of the State Surgeon General. The State Surgeon General shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources. Inappropriate sources include, but are not limited to, donors, grantors, persons, or organizations that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.

(d) The direct-support organization shall operate under written contract with the department. The contract must, at a minimum, provide for:

1. Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

2. Submission of an annual budget for the approval of the department.

3. Certification by the department that the direct-support organization is complying with the terms of the contract in a manner consistent with and in furtherance of the goals and purposes of the prescription drug monitoring program and in the best interests of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

4. The reversion, without penalty, to the state of all moneys and property held in trust by the direct-support organization for the benefit of the prescription drug monitoring program if the direct-support organization ceases to exist or if the contract is terminated.

5. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

6. The disclosure of the material provisions of the contract to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications, and an explanation to such donors of the distinction between the department and the direct-support organization.

7. The direct-support organization's collecting, expending, and providing of funds to the department for the development, implementation, and operation of the prescription drug monitoring program as described in this section and s. 2, chapter 2009-198, Laws of Florida, as long as the task force is authorized. The direct-support organization may collect and expend funds to be used for the functions of the direct-support organization's board of directors, as necessary and approved by the department. In addition, the direct-support organization may collect and provide funding to the department in furtherance of the prescription drug monitoring program by:

a. Establishing and administering the prescription drug monitoring program's electronic database,

including hardware and software.

b. Conducting studies on the efficiency and effectiveness of the program to include feasibility studies as described in subsection (13).

c. Providing funds for future enhancements of the program within the intent of this section.

d. Providing user training of the prescription drug monitoring program, including distribution of materials to promote public awareness and education and conducting workshops or other meetings, for health care practitioners, pharmacists, and others as appropriate.

e. Providing funds for travel expenses.

f. Providing funds for administrative costs, including personnel, audits, facilities, and equipment.

g. Fulfilling all other requirements necessary to implement and operate the program as outlined in this section.

(e) The activities of the direct-support organization must be consistent with the goals and mission of the department, as determined by the department, and in the best interests of the state. The direct-support organization must obtain a written approval from the department for any activities in support of the prescription drug monitoring program before undertaking those activities.

(f) The department may permit, without charge, appropriate use of administrative services, property, and facilities of the department by the direct-support organization, subject to this section. The use must be directly in keeping with the approved purposes of the direct-support organization and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the department may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the letter of agreement with the department. The letter of agreement must provide that any funds held in the separate depository account in the name of the direct-support organization must revert to the department if the direct-support organization is no longer approved by the department to operate in the best interests of the state.

(g) The department may adopt rules under s. 120.54 to govern the use of administrative services, property, or facilities of the department or office by the direct-support organization.

(h) The department may not permit the use of any administrative services, property, or facilities of the state by a direct-support organization if that organization does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

(i) The direct-support organization shall provide for an independent annual financial audit in accordance with s. 215.981. Copies of the audit shall be provided to the department and the Office of Policy and Budget in the Executive Office of the Governor.

(j) The direct-support organization may not exercise any power under s. 617.0302(12) or (16).

(12) A prescriber or dispenser may have access to the information under this section which relates to a patient of that prescriber or dispenser as needed for the purpose of reviewing the patient's controlled drug prescription history. A prescriber or dispenser acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for receiving or using information from the prescription drug monitoring program. This subsection does not create a private cause of action, and a person may not recover damages against a prescriber or dispenser authorized to access information under this subsection for accessing or failing to access such information.

(13) To the extent that funding is provided for such purpose through federal or private grants or gifts and other types of available moneys, the department shall study the feasibility of enhancing the prescription drug monitoring program for the purposes of public health initiatives and statistical reporting that respects the privacy of the patient, the prescriber, and the dispenser. Such a study

shall be conducted in order to further improve the quality of health care services and safety by improving the prescribing and dispensing practices for prescription drugs, taking advantage of advances in technology, reducing duplicative prescriptions and the overprescribing of prescription drugs, and reducing drug abuse. The requirements of the National All Schedules Prescription Electronic Reporting (NASPER) Act are authorized in order to apply for federal NASPER funding. In addition, the direct-support organization shall provide funding for the department to conduct training for health care practitioners and other appropriate persons in using the monitoring program to support the program enhancements.

(14) A pharmacist, pharmacy, or dispensing health care practitioner or his or her agent, before releasing a controlled substance to any person not known to such dispenser, shall require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity to the dispenser. If the person does not have proper identification, the dispenser may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system will be considered to be proper identification. This subsection does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted. As used in this subsection, the term “proper identification” means an identification that is issued by a state or the Federal Government containing the person’s photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

(15) The Agency for Health Care Administration shall continue the promotion of electronic prescribing by health care practitioners, health care facilities, and pharmacies under s. 408.0611.

(16) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this section, which shall include as necessary the reporting, accessing, evaluation, management, development, implementation, operation, and storage of information within the monitoring program’s system.

History.—s. 1, ch. 2009-198; s. 41, ch. 2010-151; s. 12, ch. 2010-211; s. 50, ch. 2011-4; s. 23, ch. 2011-141; s. 86, ch. 2012-5.

The 2012 Florida Statutes

893.0551 Public records exemption for the prescription drug monitoring program.—

(1) For purposes of this section, the term:

(a) "Active investigation" has the same meaning as provided in s. 893.055.

(b) "Dispenser" has the same meaning as provided in s. 893.055.

(c) "Health care practitioner" or "practitioner" has the same meaning as provided in s. 893.055.

(d) "Health care regulatory board" has the same meaning as provided in s. 893.055.

(e) "Law enforcement agency" has the same meaning as provided in s. 893.055.

(f) "Pharmacist" means any person licensed under chapter 465 to practice the profession of pharmacy.

(g) "Pharmacy" has the same meaning as provided in s. 893.055.

(h) "Prescriber" has the same meaning as provided in s. 893.055.

(2) The following information of a patient or patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy that is contained in records held by the department under s. 893.055 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Name.

(b) Address.

(c) Telephone number.

(d) Insurance plan number.

(e) Government-issued identification number.

(f) Provider number.

(g) Drug Enforcement Administration number.

(h) Any other unique identifying information or number.

(3) The department shall disclose such confidential and exempt information to the following entities after using a verification process to ensure the legitimacy of that person's or entity's request for the information:

(a) The Attorney General and his or her designee when working on Medicaid fraud cases involving prescription drugs or when the Attorney General has initiated a review of specific identifiers of Medicaid fraud regarding prescription drugs. The Attorney General or his or her designee may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. The Attorney General's Medicaid fraud investigators may not have direct access to the department's database.

(b) The department's relevant health care regulatory boards responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a specific controlled substances investigation for prescription drugs involving a designated person. The health care regulatory boards may request information from the department but may not have direct access to its database. The health care regulatory boards may provide such information to a law enforcement agency pursuant to ss. 456.066 and 456.073.

(c) A law enforcement agency that has initiated an active investigation involving a specific violation of law regarding prescription drug abuse or diversion of prescribed controlled substances. The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. A law enforcement agency may request information from the department but may not have direct access to its database.

(d) A health care practitioner who certifies that the information is necessary to provide medical treatment to a current patient in accordance with ss. 893.05 and 893.055.

(e) A pharmacist who certifies that the requested information will be used to dispense controlled substances to a current patient in accordance with ss. 893.04 and 893.055.

(f) A patient or the legal guardian or designated health care surrogate for an incapacitated patient, if applicable, making a request as provided in s. 893.055(7)(c)4.

(g) The patient's pharmacy, prescriber, or dispenser who certifies that the information is necessary to provide medical treatment to his or her current patient in accordance with s. 893.055.

(4) The department shall disclose such confidential and exempt information to the applicable law enforcement agency in accordance with s. 893.055(7)(f). The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of s. 893.13(7)(a)8., s. 893.13(8)(a), or s. 893.13(8)(b).

(5) Any agency or person who obtains such confidential and exempt information pursuant to this section must maintain the confidential and exempt status of that information.

(6) Any person who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2009-197; s. 13, ch. 2010-211; s. 51, ch. 2011-4.

RULE WORKSHOP
Prescription Drug Monitoring Program
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399
July 8, 2013
8:30AM to 1:00PM

SIGN IN SHEET

Ms. Poston will make all sign in sheets part of the rules workshop record. The following individuals were in attendance at the meeting.

Rules Workshop – 64K-1.003, 64K-1.004, 64K-1.005, F.A.C.

July 8, 2013
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399

Name	Organization	E-Mail Address	Telephone Number
Matt Dunagan	Attorney General's Office	matthew.dunagan@myfloridalegal.com	850 245-0200
Sarah Carroll	Florida Sheriffs Association	scarroll@flsheriffs.org	877-2165
Lorri Horenkamp	UF Health	lorrine.horenkamp.ufl.edu	904-386-6851
Rick Holland	Polk County sheriff's office	rholland@polksheriff.org	863 514.7495
K.L. Redfern	DOH		
Amy Mercer	FPCA	amercer@fpca.com	8502193631
Emily Gainey	OAG	Egainey@myfloridalegal.org	2450140
Chelsea McInerney	FDLE	chelseamcinerney@fdle.state.fl.us	850-410-8794
Heather Steams	EOG	heather.steams@eog.myflorida.com	717-9310
Leisha Fordham	FDLE	leishafordham@fdle.state.fl.us	410-7084

Rules Workshop – 64K-1.003, 64K-1.004, 64K-1.005, F.A.C.

July 8, 2013
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399

Name	Organization	E-Mail Address	Telephone Number
Sgt. Debra Kaspar	Sarasota Co. Sheriff's office	dkaspar@scgov.net	(941) 861-4963
Lt Scott Byrd	Marion County Sheriff	sbyrd@marionso.com	(352) 572-1810
Daniel Singer	Fair Warning Software, Inc.	daniel.singer@fairwarning.com	(727) 576-6700 x109
Jeane Clyn	DOH		
David Gross	FDLE	davidgross@fdle.state.fl.us	850 410 8349
Darrell Furuseth	TPD	Darrell.furuseth@tplgov.com	850-508-0585
Pamela Burch Fort	ACLU	Tcglobby@aol.com	850-425-1314
Joe White	FDLE	joewhite@fdle.state.fl.us	850-410-8339
Dan Loomis	FL Senate	loomis.daniel@flsenate.gov	352-212-3814

Florida HEALTH

Rules Workshop – 64K-1.003, 64K-1.004, 64K-1.005, F.A.C.

July 8, 2013
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399

Name	Organization	E-Mail Address	Telephone Number
Jamie Braun	DOH - OGC	jamie.braun@doh.state.fl.us	245-4028
Holly Miller	FMA	hmiller@flmedical.org	224 6496
Amy Christian	Johnson & Blanton	amy@johnsonblanton.com	224-1900
Sandra Stovall	FL Senate	stovall.sandra@flsenate.gov	850-487-5824
Sally West	Walgreens	sally.west@walgreens.com	210-2461

RULE WORKSHOP
Prescription Drug Monitoring Program
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399
July 8, 2013
8:30AM to 1:00PM

SPEAKER CARDS

Ms. Poston will make all speaker cards part of the rules workshop record. The following individuals spoke at the meeting.

SPEAKER INFORMATION CARD

Name: Pamela Burch FORT
Title:
Company: ~~ACLU of Florida~~

spoke during General Comments

Which rule do you wish to comment on?

✓ **64K-1.003, F.A.C.** ✓ **64K-1.004, F.A.C.** ✓ **64K-1.005, F.A.C.**

RULE WORKSHOP
Prescription Drug Monitoring Program
4052 Bald Cypress Way
Room 301
Tallahassee, FL 32399
July 8, 2013
8:30AM to 1:00PM

WRITTEN COMMENTS

Ms. Poston will make all written comments part of the rules workshop record. The following individuals spoke at the meeting.

1. ACLU Letter received July 5, 2013 dated July 8, 2013.
2. Attorney General Pam Bondi dated July 22, 2013.

To: Florida Department of Health
From: Pamela Burch Fort, on behalf of the ACLU of Florida
Maria Kayanan, Associate Legal Director, ACLU of Florida
Date: July 8, 2013
Re: Privacy Safeguards for E-FORCSE

Introduction

> "When government holds such sensitive information, it must guard it relentlessly, use it scrupulously and be above reproach."[1]

The ACLU of Florida ("ACLU") thanks DOH for the opportunity to participate in this rulemaking workshop. DOH has responded swiftly to reports that confidential prescription information of 3300 innocent Floridians—obtained by a DEA agent from the State's PDMP—was released to individuals who were not physicians, pharmacists, or law enforcement agents.[2]

Although the details surrounding the release are not yet known (because the agency has not, to date, provided the documents the ACLU requested under Ch. 119, Florida Statutes), what is clear is that the end result is a grave violation of those individuals' right to privacy under the Florida Constitution, Article I, s.23, and most likely, also a violation of HIPAA and other federal privacy statutes and regulations.[3]

The ACLU opposed the creation of the database from the outset: the collection and storage of vast amounts of confidential prescription information, including the patients' full names, home addresses, medications, dosages, prescribing physicians, pharmacists, and methods of payment, is rife with the potential for abuse. Prescription medication information stored in the PDMP signals an individual's medical conditions, which are private matters between doctors and their patients.

The ACLU offers the following suggestions. Because of time constraints and the nature of the incident that sparked this rulemaking workshop, the ACLU's suggestions are limited to access by law enforcement to the PDMP. Our suggestions seek to prevent broad and unfocused law enforcement queries to the database; limit the distribution of the results; and impose oversight

[1] June 13 Editorial, Panama City News Herald.
[2] The DEA investigation resulted in 6 prosecutions in Volusia County for prescription drug fraud. The defense attorneys for the 6 defendants were provided with discs containing the prescription drug history of all 3300 individuals.
[3] On June 22, 2013, the ACLU filed a complaint with the U.S. Department of Health & Human Services on behalf of Jane and John Does 1-3300, asking the agency to investigate the matter.

and accountability over the process. These suggestions do not in any way minimize the ACLU's fundamental opposition to the very existence and maintenance of the PDMP database.

I. The State should require law enforcement agencies and officers to obtain a warrant to access E-FORCSE.

A. The ACLU is aware that requiring law enforcement agencies to obtain a warrant or court order is a change that must come from the Legislature, and not DOH, but stresses that such an amendment to section 893.055, Fla. Stat., is critical. The PDMP is not a research tool; it is a collection of highly sensitive information to which law enforcement should only have access after a neutral third party has examined the asserted grounds for need; determined that the law enforcement agency is targeting specific individuals or entities for specific crimes, supported by probable cause; and is not simply embarking on a fishing expedition that will cast a net so wide that it captures thousands of innocent patients, in search of a handful of individuals who may ultimately be charged in criminal or administrative proceedings.
B. Currently 17 states will release information from the state PDMP only upon a showing of probable cause, issuance of a search warrant, subpoena, or other judicial process. Those states are Alabama, Alaska, Arkansas, Colorado, Georgia, Iowa, Kansas, Louisiana, Maine, Maryland, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, and Oregon.

II. Absent a warrant requirement, DOH can appropriately narrow law enforcement access to the PDMP to prevent fishing expeditions

A. Broad queries by law enforcement agencies/users for "recipients" (i.e., patients) should be prohibited. "Wild card" queries, queries based on names that "sound like,", and partial name queries currently suggested by the "Training Guide for Enforcement and Investigative Agencies" for the Florida Department of Health Prescription Monitoring Program (v1.9) (November 2012)[4] should be rejected by the Program Manager.
B. Law enforcement queries for "recipients" should be limited to specific individuals who are the subject of ongoing investigations as defined in Fla. Stat. § 893.055(1)(h).
C. DOH should, therefore, oversee the wholesale revision of the "Training Guide for Enforcement and Investigative Agencies" to prohibit, rather than encourage, searches that use the overbroad queries currently featured in the manual.

4 http://www.hidinc.com/assets/files/flpdms/FL%20PDMP_Training%20Guide%20for%20Enforcement%20and%20Investigative%20Agencies.pdf

III. Results of law enforcement queries should be redacted to remove all names and personal information of individuals who were not under active investigation.

Personal information that should be redacted includes an individual's name, address, telephone number, prescribing physician, pharmacist, insurance plan number, provider number, government-issued identification number, and any other unique identifying information or numbers.

IV. DOH must ensure that query results remain confidential once obtained from E-FORCSE.

A. DOH should release to law enforcement agents/users **only one document**, in whatever format released, containing the results of that agent/user's query. **That document should clearly indicate, via non-removable watermark or other non-removable means, on each page, that "This document was obtained from E-FORCSE, contains confidential medical information, and shall not be copied**."

B. One additional copy of those existing query results may be obtained from DOH only upon application to the Program Manager, and only upon attestation that the request for the copy is made in connection with an active investigation as defined by section 893.055(1)(h).

C. Any copy of existing query results obtained from the Program Manager should indicate that **it is an authorized copy**, and shall contain the same information as indicated above (**"This document was obtained from E-FORCSE, contains confidential information, and shall not be copied."**).

D. DOH should require that each law enforcement agency/user who receives results of a query to the PDMP shall inform DOH, within ten days of filing of administrative, civil, or criminal proceedings relating to or resulting from that query, or effecting an arrest in connection with those proceedings, that the investigation is no longer active as defined by Fla. Stat. § 893.055(1)(h).

E. DOH should require that any private identifying information gathered from the E-FORSCE database relating to non-parties in any administrative, civil, or criminal proceeding must be fully redacted prior to the information being distributed from any law enforcement officer. Private identifying information includes the prescription medication, name, address, telephone number, insurance plan number, provider number, drug enforcement administrative number, government-issued identification number, and any other unique identifying information or numbers relating to that non-party.

V. Inadvertent disclosure of recipients' information

A. DOH should (1) develop policies and procedures regarding the inadvertent disclosure of recipients' confidential information, when those individuals were not the subject of an active investigation as defined by Fla. Stat. § 893.055(1)(h); (2) establish policies for investigating and reporting such disclosures; and (3) provide a method of redress for such disclosures and impose sanctions on those responsible.
B. For example, if, notwithstanding the above, any entity or person receives, in any form, the private identifying information of individuals who are not the targets of active investigations (as defined in section 893.055(1)(h)), which indicates that it was obtained from E-FORCSE, that entity or person shall, within 24 hours of discovery that such information is in their possession, inform the Program Manager of E-FORCSE of such disclosure. The Program Manager should, in turn, notify general counsel for DOH.
C. DOH should maintain a log of all such inadvertent disclosures, including the names of the entity or person who received the information, the date of receipt, and the name(s) of the entity or person from whom the information was received.
D. DOH should develop a means by which such information will be returned to the agency without further compromising the individual's privacy, and require that, within 24 hours of such notification, the entity or individual who received the information return it to DOH by a specified and secure method.
E. Upon return of that information to DOH, DOH should, within 24 hours, notify the individual that their confidential prescription information was released, and inform the individual of the name of the person(s) or entities that had possession of such information and their contact information.
F. DOH should also notify that individual of redress procedures relating to the release of their confidential information.

Conclusion

The ACLU again emphasizes its opposition to the existence and maintenance of the E-FORCSE database, and our position that law enforcement should have access to E-FORCSE only after obtaining a warrant or court order targeting specific individuals or entities for specific crimes, supported by probable cause.

Notwithstanding our opposition, our suggestions are made to help DOH develop rules within its rulemaking authority that may minimize the risk of disclosure of confidential information of individuals who are lawfully taking properly prescribed prescription medication.

Respectfully submitted,

/s/ Pamela Burch Fort, for the ACLU of Florida

/s/ Maria Kayanan, Associate Legal Director, ACLU of Florida

July 22, 2013

Dr. John H. Armstrong, Surgeon General
Florida Department of Health
2585 Merchants Row Boulevard
Tallahassee, FL 32311

Dear Dr. Armstrong:

We appreciate your leadership in organizing and hosting the July 8th Prescription Drug Monitoring Program (PDMP) rule-making meeting. As members of Florida's law enforcement community we too want to ensure the PDMP continues to help lower prescription drug abuse while protecting patient privacy.

The PDMP continues to save lives in Florida by allowing our medical community to immediately review a patient's history for prescribed controlled substances. Indeed, after the PDMP became fully operational at the end of 2011, Florida measured a 10% decline in the number of prescription drug overdose deaths for the first six months of 2012. Furthermore, Florida is recording a 59% decline in the number of "doctor shoppers," defined as individuals who visit 10 or more prescribers and 10 or more pharmacies in a 90 day period.

Recently, there was a report of a criminal defense attorney releasing one patient's PDMP information that the attorney had obtained through mandatory discovery in a criminal case. To be clear: this incident was not a "breach" of the PDMP, nor was there any error or improper release by the Department of Health or by any law enforcement entity.

To ensure that similar incidents do not occur in the future, the Florida Prosecuting Attorneys Association has adopted a formal policy regarding the release of PDMP information generated during criminal discovery. A copy of the resolution is attached for your reference.

Florida's law enforcement community recognizes the importance of protecting patient privacy while keeping our state safe from prescription drug diversion and crime; both of these goals are better achieved with the help of a fully functioning PDMP.

Sincerely,

Pam Bondi

The Honorable Pam Bondi
Florida Attorney General

The Honorable Brad King
President Florida Prosecuting Attorneys Association

The Honorable Sheriff Susan Benton
President of the Florida Sheriff's Association

Chief Philip Thorne
President of the Florida Police Chief's Association

Attachment: June 19th FPAA Policy Statement

FLORIDA PROSECUTING ATTORNEYS ASSOCIATION

June 19, 2013

The Honorable Pam Bondi
Attorney General
Department of Legal Affairs
The Capitol
Tallahassee, Florida 32399-1050

RE: Release of Information in Criminal Discovery Demands for Materials received regarding the Prescription Drug-Monitoring Program under Chapter 893.055, Florida Statutes

Dear General Bondi:

Pursuant to your request, the following is the statement of the policy utilized by State Attorneys regarding the above-captioned matter. When Discovery demands are made upon us regarding information we have pursuant to Chapter 893.055, Florida Statutes, which is not directly related to a criminal case at hand, we will inform the inquirer that we have that information. This unrelated information will not be released to anyone requesting it unless ordered to do so by a court of competent jurisdiction.

I hope this satisfactorily responds to your inquiry and if I may be of further assistance, please contact me.

Sincerely,

WILLIAM EDDINS, PRESIDENT
FLORIDA PROSECUTING ATTORNEYS ASSOCIATION

WE/klm
cc: Governor Rick Scott